19 Pac. 190. The proper interpretation seems to be, however, that the usual equity rule is declared. See *Phelan* v. *Neary*, 22 S. Dak. 265, 117 N. W. 142; *Prince* v. *Lamb*, 128 Cal. 120, 60 Pac. 689; *White* v. *Sage*, 149 Cal. 613, 87 Pac. 193. This interpretation would seem clear when the statute, as in the principal case, provides that mere inadequacy of price "may justify" a court in refusing to decree specific performance. It has been held that a statute such as those cited above places the burden upon the plaintiff of alleging facts in his declaration which affirmatively show adequacy of consideration. *White* v. *Sage, supra*. But it seems more reasonable to hold that inadequacy of consideration is a matter of defense. *Finlen* v. *Heinze*, 28 Mont. 548, 73 Pac. 123. In the principal case there are no circumstances alleged which give rise to an inference of hardship or unfairness. It would seem, therefore, that the demurrer should have been overruled.

TAXATION — LOCAL ASSESSMENT FOR "STOCK LAW FENCES" — DIVERSION TO GENERAL FUND. — A statute authorized a county to sell its "stock law fences," now no longer necessary, and directed that the proceeds, as well as the surplus of the stock law fund, should be returned to the general fund of the county. When the fences were built, assessments had been imposed upon landowners in that portion of the county where the fences were located. These landowners seek to have the proceeds of the sale and the surplus distributed among themselves alone, attacking the statute as unconstitutional. *Held*, that the statute is constitutional. *Parker* v. *Board of Commissioners of Johnston County*, 100 S. E. 244 (N. C.).

The taxes with the proceeds of which the fences had been built were in the nature of local assessments. *Cain* v. *Commissioners of Davie County*, 86 N. C. 8. Such assessments are not taxes within the equality and uniformity provisions of the state constitutions. *Arnold* v. *Mayor, etc. of Knoxville*, 115 Tenn. 195, 90 S. W. 469; *City of Auburn* v. *Paul*, 84 Me. 212, 24 Atl. 817; *City of St. Joseph* v. *Owen*, 110 Mo. 445, 19 S. W. 713. But assessments must be apportioned according to benefits; and by the weight of authority constitutional provisions which forbid the taking of property without due process of law make such apportionment mandatory. *White* v. *City of Tacoma*, 109 Fed. 32; *Erie* v. *Russell*, 148 Pa. St. 384, 23 Atl. 1102. See *Stuart* v. *Palmer*, 74 N. Y. 183, 189. See 1 PAGE AND JONES, TAXATION BY ASSESSMENT, § 118. If the money has been collected by assessment, but not expended, and the improvement abandoned, the persons assessed have a right to a refund. *McConnville* v. *City of St. Paul*, 75 Minn. 383, 77 N. W. 993. See *Bradford* v. *City of Chicago*, 25 Ill. 411, 416. And a similar right exists where there is a surplus. See *City of Chicago* v. *McCormick*, 124 Ill. App. 639, 640; *Cleveland* v. *Tripp*, 13 R. I. 50, 64. But if the proceeds have been used for the designated purpose, the person complaining cannot recover, even though the expected benefit has not accrued to him. *Germania Bank* v. *City of St. Paul*, 79 Minn. 29. The principal case seems doubtful, unless the decision can be rested upon the ground that, in view of the small amount involved, distribution among the property owners would be inexpedient and would yield almost nothing. It has been held that the constitutional requirement that taxes shall be uniform applies to their levy, and not to their distribution after they have been raised. *Kerr* v. *Perry School*, 162 Ind. 310, 70 N. E. 246; *Holton* v. *Mecklenburg County Com'rs*, 93 N. C. 430.

TAXATION — PARTICULAR FORMS OF TAXATION — TRANSFER TAX — TRANSFER TO TAKE EFFECT AT DEATH. — An uncle, retiring from a partnership in which he and his nephew were the only members, gave up to his nephew a debt which the partnership owed him, upon the nephew's promise to leave the money in the business and pay him two per cent on the amount until his death.